

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the) NOTICE OF AMENDMENT
amendment of ARM 24.11.452A,)
24.11.613, and 24.11.2205,)
all related to unemployment)
insurance)

TO: All Concerned Persons

1. On July 28, 2006, the Department of Labor and Industry published MAR Notice No. 24-11-209 regarding the public hearing on the proposed amendment of the above-stated rules at page 1699 of the 2006 Montana Administrative Register, issue no. 13.

2. On July 28, 2006, the department held a public hearing in Helena regarding the above-stated rules. No comments were received from the public at the hearing. Two written comments were received prior to the closing date of August 4, 2006.

3. The department has thoroughly considered the comments received. The following is a summary of the comments received and the department's response.

Comment 1: Two comments were received from national businesses that handle unemployment insurance ("UI") matters for employers. Their comments concern the proposed amendments to ARM 24.11.452A and 24.11.613, which propose to reduce the number of days allowed for an employer or claimant to respond to the department's request for information from ten days to eight days. The commenters believe the two-day reduction would cause a hardship on employers and specifically, their agents, who handle UI matters, to respond within eight days. The commenters also stated that the department's mailing of correspondence by the U.S. Postal Service to employers or their agents aggravated the problem, and prevents agents from responding to department requests in a timely manner. The commenters requested the department consider using electronic communications (e-mail or the world wide web).

Response 1: The department acknowledges the concerns raised by the commenters. Currently, telephone calls and facsimile transmissions ("fax") are the primary methods the department uses to communicate with employers and workers to obtain information used in fact-finding for UI claims determinations. Use of telephone and fax enable the employer to begin to gather information for a response within the first day of the response period. The department uses the U.S. Postal Service as the last option to contact employers or their agents.

Currently, the use of e-mail or the world wide web is not technically feasible with the department's existing computerized claims processing system. Unlike the

department's Internet-based claims system, which provides encrypted message transmission, the current e-mail system generally used in Montana state government is not encrypted. Montana law (39-51-603(3), MCA) requires that information obtained with respect to unemployment insurance claims be kept confidential, except as to the claimant and the employer. Because of the risk of interception of nonencrypted electronic communications passing over the Internet via e-mail or the world wide web, the department believes that it is not appropriate to receive claims-related information via unencrypted e-mails or via the world wide web.

The department notes that it supports the Unemployment Insurance Separation Information Data Exchange System, the "UI SIDES" project, and has become involved in the work groups. The department is also developing an Internet-based Employer Registration system, which will be completed within the next 12 months. One of the options being studied would permit employers to ask questions about their account or correspond with UI staff electronically and will be explored to address the concerns raised by the commenters.

4. After consideration of the comments, the department amends the rules exactly as proposed.

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 25, 2006.